



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 4182-99

10 December 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 4 June 1981 at the age of 18. Your record shows that you served for almost a year without disciplinary incident. However, during the period from 18 May 1982 to 25 April 1983, you received nonjudicial punishment (NJP) on five occasions for failure to obey a lawful order, two incidents of failure to go to your appointed place of duty, urinating in a public area, two incidents of urinating on a telephone pole, and disrespect. Shortly thereafter, on 10 May 1983, your urine tested positive for illegal drugs.

On 6 October 1983 you were notified of pending administrative separation action by reason of misconduct due to a pattern of a misconduct. At this time you waived your rights to consult with legal counsel, to submit a statement in rebuttal to the separation, or to present your case to an administrative discharge board. On 16 October 1983 your commanding officer recommended you be issued an other than honorable discharge by reason of misconduct due to a pattern of misconduct.

Subsequently, the discharge authority directed your commanding officer to issue you an other than honorable discharge by reason of misconduct. On 21 March 1984 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded. The Board also considered your contention that you were told that your discharge would be upgraded a year after your separation. However, the Board concluded these factors were not sufficient to warrant recharacterization your discharge given the serious nature of your frequent misconduct. Further, no discharge is upgraded simply because of the passage of time. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director